

addition, the board of directors of the company was well aware of the aggressive accounting practices that were being implemented.<sup>6</sup> The members were enlightened and notified regarding the reason behind making use of the Whitewing, LJM, and Raptor transactions, thereafter being alerted on the operations once they sanctioned them.<sup>7</sup> While not all inappropriate accounting activities were let known to the board of directors, all the operations were reliant on its decision. Enron largely depended on the derivatives for its business operations, yet the board, which was the decision-maker on everything, did not have a comprehensive understanding of organization of the derivatives. This was a great risk in management because they could have avoided the use of the derivatives if they understood what it fully entailed.<sup>8</sup>

#### ***Do the reforms made address these failures?***

In reaction to both the downfall of Enron and the wide-ranging incursion of commercial malfeasance, the Sarbanes-Oxley Act was legislated in 2002. This Act substantively has an impact on the management officials and executives of public corporations. It mandates that the Chief Executive Officer and the Chief Financial Officer should certify that they have appraised the financial report and that on the basis of their understanding the financial report signifies the material respects of the financial position of the firm.<sup>9</sup> The Sarbanes-Oxley Act stipulates that all substantial off-balance sheet dealings have to be revealed and publicized on all of the company's 10-K forms and 10-Q forms.<sup>10</sup> This regulation was in reaction to the lack of disclosure by Enron concerning its Special Purpose Entity transactions. This is in reaction to

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<sup>6</sup> Paley, R. G., Healy, P. M., *Negotiation, Organizations, and Markets Research Papers* Harvard MBS Research Paper No. 00-06, 2000, 10-11.

<sup>7</sup> McLean, B., Elkind, P., *The Secretive Days in the Room*, New York: Penguin, 2002, p.67.

<sup>8</sup> Gillen, S., Martin, J. G., *Financial Engineering, Corporate Governance, and the Collapse of Enron*, The University of Delaware: Alfred Lerner College of Business and Economics, 2002, p.17.

<sup>9</sup> Romano, R., *The Sarbanes-Oxley Act and the Making of Quack Corporate Governance*, New York: University Law and Economics Working Paper No.3, 2004, p.14.

<sup>10</sup> Goldman, A., Sigmond, W., *Business Law: Principles and Practices 9th Edition*, Ohio: Cengage, 2004.

# Securities Law The Internet 2002 Disclosure Practices In Light Of Enron

**DJ Losen**



## **Securities Law The Internet 2002 Disclosure Practices In Light Of Enron:**

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